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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,703	06/18/2001	Tomoyuki Araki	35.C15469	8604
5514	7590	08/11/2004		
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				
			EXAMINER LEE, CHEUKFAN	
			ART UNIT 2622	PAPER NUMBER
DATE MAILED: 08/11/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/881,703

Applicant(s)

ARAKI ET AL.

Examiner

Cheukfan Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

1. Claims 1-10 are pending. Claims 1 and 8 are independent.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Yamashita (U.S. Patent No. 6,172,774).

Regarding claims 1 and 3, Yamashita discloses an image reading apparatus (Fig. 2) comprising first image reading means (3 in lower section A) for reading a lower surface of an original and second reading means (upper reader B) for reading an upper surface of the original, the first and second reading means having the original in between as a boundary, each of first and second reading means including a light source (15 in 3 of A, an inherent light source of B, respectively) and a reading member (12 in 3 of A, also 12 in optical unit 11 of B, respectively) (col. 5, lines 2-5). The inherent light source of the second reading means is positioned inherently close to the document transport roller set (7a and 7b) since the optical path within the upper reader starts from where the roller set is positioned in the view shown in Fig. 2). The reading member (12 of the upper reader B) of the second image reading means is provided separately from a vertical line passing through the inherently light source.

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Regarding claim 2, the reading member (image sensor in upper reader B, col. 5, lines 2-5) is horizontally separated from the vertical line discussed for claim 1 (Fig. 2).

Regarding claim 6, the second or upper reading means (B) is a unit which reads an original being conveyed and is openable and closable relative to a main body A of the apparatus with an original conveying path (23 in Figs. 1 and 2) as a boundary. When the (second) unit is opened, the reading member (image sensor 12, col. 5, lines 2-5) is located above a portion of the unit which forms the original conveying path (23).

Regarding claim 7, the (second) unit is pivotally movable about a fulcrum (22).

Regarding claims 1 and 4, interpreting the lower reader (3 in A) to read on the claimed second image reading means and the upper reader (B) to read on the claimed first image reading means (opposite to interpretation of claims 1 and 3 above), the second reading means (lower reader 3 in A) also has the reading member provided separately from a vertical line passing through the light source (15 in 3). Claim 4 does not require that the "cover for covering said second reading means" be the same as a cover comprised of the claimed "first cover portion" and "second cover portion". Thus, to the extent of claim 4, the cover of the housing of the lower reader or second image reading means reads on the claimed cover, an upper portion of the housing that covers the image sensor (12) or reading member of the lower or second image reading means (3) reads on the claimed second cover portion, and the cover portion (37), which is located definitely above the light source (15) of the second or lower image reading

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means and covers the light source (15) and other components, reads on the claimed first cover portion.

Regarding claim 5, which depends upon claim 4, the first cover portion (37 in Figs. 1 and 2) has an opening portion, shown more clearly in Figs. 1, 3 and 4, i.e., the portion (37) does not have an enclosed structure. The opening portion reads on the claimed opening portion of the first cover portion.

Regarding claim 8, Yamashita still meets all claimed limitations. The upper reader (B) for reading an original being conveyed reads on the claimed "a unit for reading an original being conveyed", the upper unit (B) having a reading member (image sensor 12, col. 5, lines 2-5) for reading image light from the original being conveyed, the (upper) unit being openable and closable relative to a main body (A) of the apparatus with an original conveying path (23) as a boundary. When the (upper) unit (B) is opened, the reading member (image sensor 12, col. 5, lines 2-5) is located above a portion of the unit (B) which forms the original conveying path (23).

Regarding claim 9, the unit (B) is pivotally movable about a fulcrum (22).

Regarding claim 10, the unit (B) reads an upper surface of the original.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheukfan Lee whose telephone number is (703) 305-4867. The examiner can normally be reached on 9:30 a.m. to 6:00 p.m., Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward L. Coles can be reached on (703) 305-4712. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cheukfan Lee
Aug. 1, 2004



Cheukfan Lee